To: Unistrut International Corporation (mhall@kdbfirm.com)

Subject: U.S. TRADEMARK APPLICATION NO. 86230383 - U - 1532TUN04168

Sent: 4/5/2016 12:10:36 PM

Sent As: ECOM115@USPTO.GOV

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UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO) OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 86230383

Attachment - 50 Attachment - 51

MARK: U

CORRESPONDENT ADDRESS:

MICHAEL E HALL KACVINSKY DAISAK BLUNI PLLC 3120 PRINCETON PIKE SUITE 303 LAWRENCEVILLE, NJ 08648

APPLICANT: Unistrut International Corporation

CORRESPONDENT'S REFERENCE/DOCKET NO: 1532TUN04168

CORRESPONDENT E-MAIL ADDRESS:

mhall@kdbfirm.com

86230383

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OFFICE ACTION

ISSUE/MAILING DATE: 4/5/2016

THIS IS A FINAL ACTION.

This action is in response to the voluntary amendments filed by applicant on March 7 and 23, 2016.

Procedural History

Application and Appeal: This application was filed on March 27, 2014. The first office action issued on June 18, 2014 and included a requirement for clarification of the identification and classification of the goods. The trademark examining attorney issued a final Office action requiring an acceptable identification and classification of goods on January 10, 2015. On July 20, 2015, applicant responded by filing a notice of appeal to the Trademark Trial and Appeal Board (Board) and a request for reconsideration that contained only a single proposed change, the deletion of the wording "and supports" from "electrical and electronic installation products and accessory components, namely, fittings and supports for fluorescent lighting fixtures" in International Class 11. The request for reconsideration was denied on August 7, 2015. Applicant's brief was filed on October 6, 2015 and the examining attorney's brief was filed on December 4, 2015.

Remand: Applicant requested remand on December 30, 2015. On January 4, 2016 the Board suspended the appeal and remanded the application to the trademark examining attorney for consideration of the request. On February 17, 2016 the examining attorney emailed applicant comments on the proposed amended identification of goods in the request for remand. The comments included chart detailing the reasons that certain wording was unacceptable and included examples of acceptable amendments. Applicant responded via email on February 26, 2016 with proposed amendments. On February 29, 2016 the examining attorney again provided applicant with a chart with detailed comments on the proposed amendments, examples of acceptable amendments, and supporting evidence from the online U.S. Acceptable Identification of Goods and Services Manual (http://tess2.uspto.gov/netahtml/tidm.html) ("ID Manual").

Applicant filed a voluntary amendment on March 7, 2016 incorporating much of the proposed wording that was discussed in the previous email correspondence. On March 23, 2016 the examining attorney again emailed applicant regarding the only outstanding wording, "Non-metal structural building and framing products sold as a system, primarily comprised of non-metal brackets for building, non-metal tubing ends for tubing members, non-metal closure strips for channel members, non-metal ducts, and non-metal door jambs" in International Class 19. The

email included an explanation of why the proposed amendment was not acceptable and another example of an acceptable amendment that attempted to address applicant's evidence regarding the goods. Applicant filed another voluntary amendment on March 28, 2016 with arguments in support of its proposed amendment.

The March 7 and 23, 2016 amendments present new evidence that must be addressed. *See* TBMP §1204; TMEP §715.04(b). Therefore, this new final Office action is being issued to address such new evidence and supersedes the previously-issued final Office action.

Clarification of Identification of Goods Required

The identification requirement is maintained and continues to be final as to the wording "Non-metal structural building and framing products sold as a system, primarily comprised of...non-metal tubing ends for tubing members, non-metal closure strips for channel members" in "Non-metal structural building and framing products sold as a system, primarily comprised of non-metal brackets for building, non-metal tubing ends for tubing members, non-metal closure strips for channel members, non-metal ducts, and non-metal door jambs" in International Class 19. See TBMP §1204; TMEP §§713.02, 715.04(b). This wording must be clarified because it is too broad and could include goods in other international classes. See TMEP §§1402.01, 1402.03. As applicant has been advised in each office action and the numerous emails, this wording could include goods in other classes such as caps in International Class 20 and bands in International Class 22. See ID Manual entries for caps and bands attached to the February 29, 2016 outgoing email.

Non-metal tubing ends for tubing members: This wording must be clarified because it is too broad and could include goods in other international classes. See TMEP §§1402.01, 1402.03. As applicant has been advised in each office action and the numerous emails, this wording could include goods in other classes such as caps in International Class 20. See outgoing emails from February 17, February 29, and March 23, 2016 and ID Manual entries attached to the February 29, 2016 outgoing email. See also attached entries from the ID Manual showing that fittings for non-metal flexible pipes and tubes are in International Class 17 and non-metal fittings for rigid pipes are in International Class 20.

Applicant argues this wording is acceptable because the wording "tubing ends" appears in the ID Manual of "metal caps for {indicate use, e.g., tubing ends}" in International Class 6. This entry is distinguishable from applicant's proposed wording. The goods in the ID Manual entry are "metal caps" for a specific use, and "tubing ends" is an example of an acceptable specification of the use of the caps, not as goods themselves. Applicant's wording is not so specific; in contrast it only specifies the goods are "ends" for "tubing members."

Applicant also argues that "tubing ends" is common commercial name for the goods, however applicant has not provided any evidence of this. Review of the evidence submitted in the March 28, 2016 action in support of this statement shows exactly the opposite – that tubing ends include a wide variety of goods for use in a number of different fields. Applicant's evidence shows tubing ends of metal, plastic and other materials, and as parts for vehicles, shelves, fluid processing, irrigation hoses, and medical tubing:

- Bryke Racing: threaded tubing ends, see attached from http://www.bryke.com/300-358/Threaded+Tubing+End.html showing the goods are for vehicle suspensions
- C.R. Laurence Co.: stainless tubing end for a "tray slide shelf," see attached from http://www.crlaurence.com showing these goods are for shelf brackets
- Keyser: the attached from http://www.keysermanufacturing.com/ shows these goods are racing parts
- Lamb: the attached from http://www.lambcomponents.com/ shows the goods are auto parts
- AdvantaPure: applicant's evidence describes the goods as "for single-use applications such as sampling or storage" and the attached from http://www.advantapure.com/advantaflex.htm shows the goods are for "biopharmaceutical tubing for fluid processing."
- Bluetorch: applicant's evidence shows these goods are for vehicle roll cages
- The Drip Store: applicant's evidence shows these goods are for irrigation hose ends
- Rehab Mart: applicant's evidence shows flexible tubing for oxygen, the full version of this page (http://www.rehabmart.com/product/corrugated-aerosol-oxygen-tubing-36863.html) attached to this action shows the goods referenced are not tubing ends, but rather that the flexible tubing has "easy-fit tubing ends," and additional evidence from this site (http://www.rehabmart.com/index-dme.asp) shows that the goods are medical products.

Applicant's evidence includes a notable lack of examples of the wording "tubing ends" used to describe a type of building and framing product. Thus, this wording is not a common commercial term for building products, and could include items in other classes.

The March 23, 2016 email regarding the voluntary amendment also included a proposed amendment that suggested wording clarifying the type of ends and members that would be appropriate for International Class 19.

Non-metal closure strips for channel members: As set forth in the explanation provided with the February 29, 2016 email, this wording could include items in other classes such as bands in International Class 22. See attached entries for "binding" from the ID Manual attached to the

February 29, 2016 office action showing non-metal bands for binding in International Class 22. Further, the nature of the goods described by "strips" and "channel members" is unclear.

The attached evidence shows that closure strips can include items for filling gaps in roofing, strips used to close gaps in building panels, and for decks. See: http://www.lowes.com (closure strips for roof panels), http://aviationbuildingsystem.com/resources/glossary-of-terms-aluminum-coated-steel-anchor-bolts-assembly/glossary-c-column-component-continuous-beam-curtain-wall-covering (closure strip as "a resilient strip, formed to the contour of ribbed panels and used to close openings created by ribbed panels joining other components), http://shop.onduline-usa.com/collections/ondura-tuftex-accessories/product-type_closure-strip (closure strips for building panels), and http://www.cordeck.com/metal-deck-products (decking and closure strips therefor).

"Closure" means "the act of closing or the state of being closed," and "close" means "To fill or stop up, "to bar access to," and "to draw or bind together the edges of." See attached from the online American Heritage Dictionary. Thus, the wording proposed by applicant could include a variety of goods, including strips that join together different types of building materials, and bind together materials, such as those in the International Class 22 entries from the ID Manual.

Sample Amended Identification

Applicant may adopt the following identification, if accurate:

International Class 6: Building and framing accessory and installation components all made of metal, namely, nuts, bolts, screws, washers for use as hardware, studs, hinges, springs for use as hardware, spring clips for use as hardware, pipe couplings, pipe clamps, pipe rollers for use as hardware, pipe hangers, fender hooks for use as hardware, conveyor and trolley rollers for use as hardware, clamps, brackets for use as hardware, tubing clips, and conduit and pipe risers; strut-type structural building and framing products, namely, rolled and extruded continuous slot metal channels; sectional metallic building units and couplings, fittings, and connections therefor, adapted to serve as framing and supporting members for temporary and permanent construction of buildings and other structures; metal electrical and electronic installation products and accessory components, namely, cable trays and supports, conduits, bus duct and bus bar supports, cable saddles and supports, bus bar clamps, bus duct connectors, and wiring stud nuts

International Class 9: Electrical and electronic installation products and accessory components, namely, raceways, switch plates, outlets and outlet plates, conduit connection fittings and connectors, outlet box connection fittings, fibre wire retainers in the nature of reels for electrical wire, relay racks for mounting electrical equipment; electricity distribution console assemblies primarily comprised of electricity distribution consoles and also including adjustable framing members adapted to installation of electronic equipment facing members; electrical substation assemblies primarily comprised of electrical power stations and also including adjustable framing members, brackets, and fittings adapted for mounting of electrical insulators

International Class 11: Electrical and electronic installation products and accessory components, namely, fittings for fluorescent lighting fixtures

International Class 17: Building and framing accessory and installation components, namely, rubber washers

International Class 19: Non-metal structural building and framing products sold as a system, primarily comprised of non-metal brackets for building, *non-metal coupling ends for rigid tubing, non-metal closure strips being parts for covering open sides of framing channel bars*, non-metal ducts, and non-metal door jambs; non-metal building and framing accessory components, namely, pipe couplings and brackets for building, and riser supports for non-insulated conduit and pipe

International Class 20: Non-metal building and framing components, namely, nuts, bolts, screws, hinges, springs for use as hardware, spring clips for use as hardware, pipe clamps, pipe rollers for use as hardware, pipe hangers, fender hooks for use as hardware, conveyor and trolley pulley rollers for use as hardware, clamps, and tubing clips

An applicant may only amend an identification to clarify or limit the goods and/or services, but not to add to or broaden the scope of the goods and/or services. 37 C.F.R. §2.71(a); see TMEP §§1402.06 et seq., 1402.07.

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable *U.S. Acceptable Identification of Goods and Services Manual* at http://tess2.uspto.gov/netahtml/tidm.html. *See* TMEP §1402.04.

Appeal Resumed

Upon issuance of this new final Office action, the application will be returned to the Board for resumption of the appeal. *See* TBMP §1204; TMEP §715.04(b). Any further request for the trademark examining attorney to consider this application must be made via a request for remand to the Board, for which good cause must be shown. *See* TBMP §1204; TMEP §715.04(b).

/April Roach/ Trademark Examining Attorney Law Office 115 (571) 272-1092 april.roach@uspto.gov

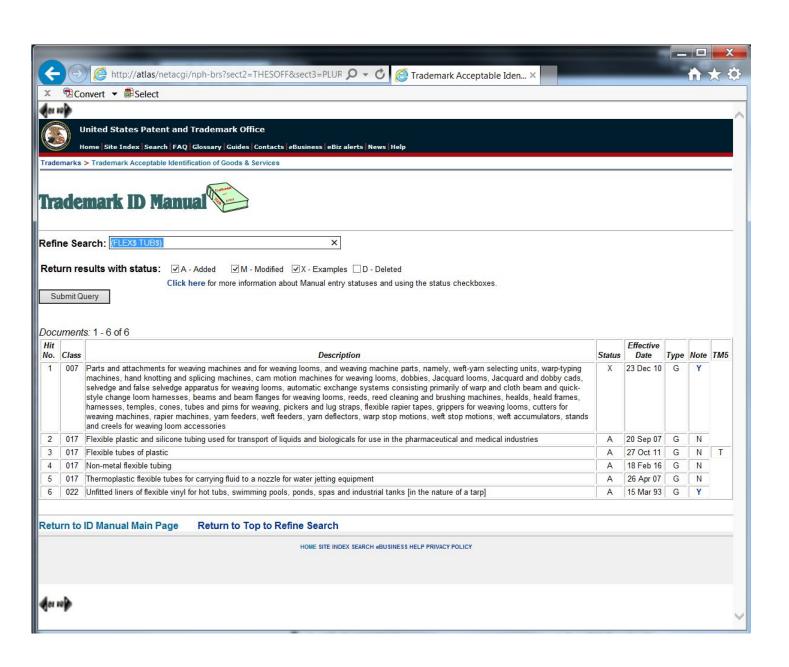
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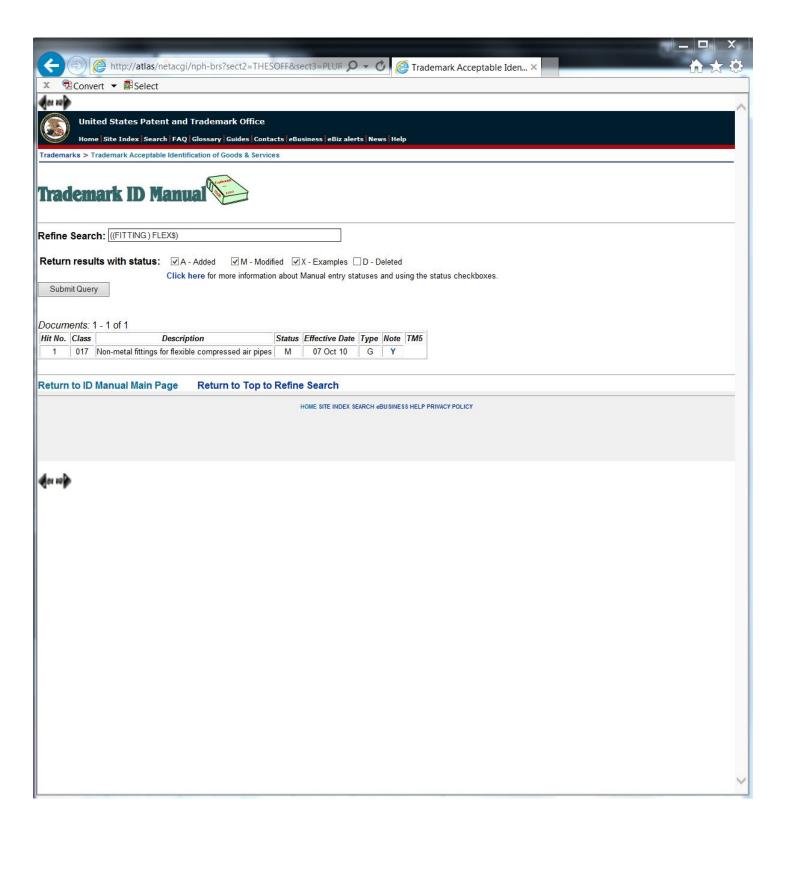
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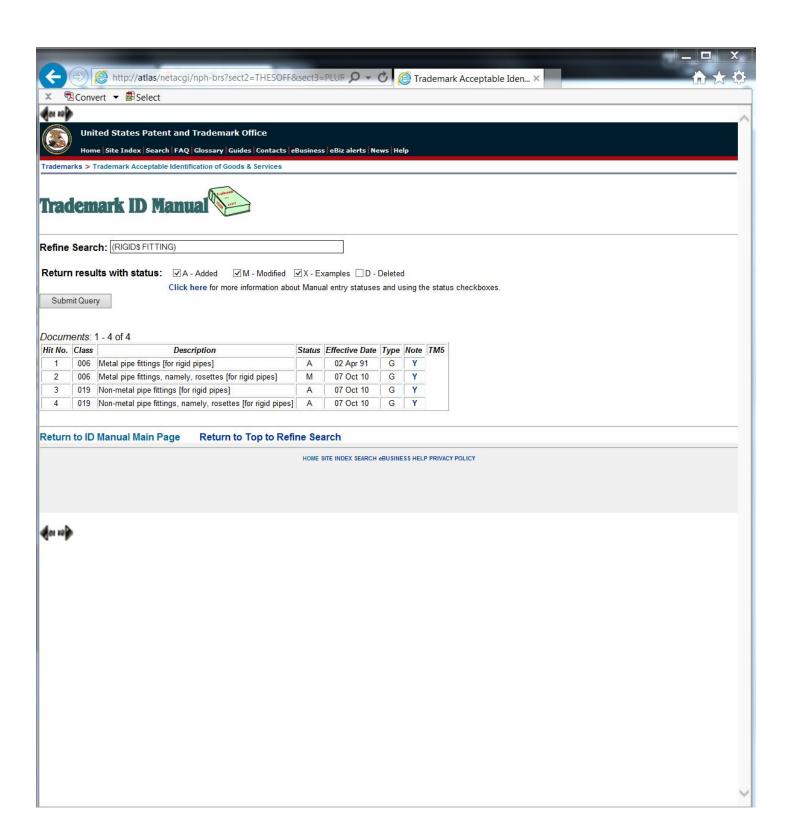
WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

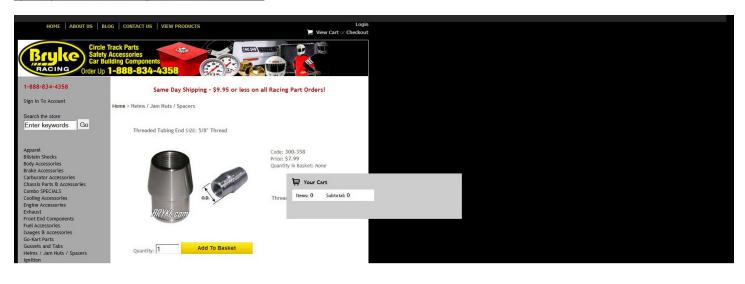
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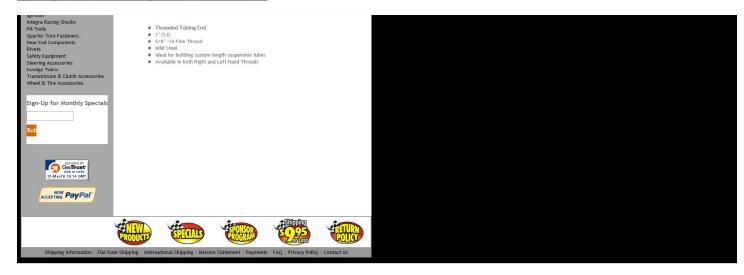
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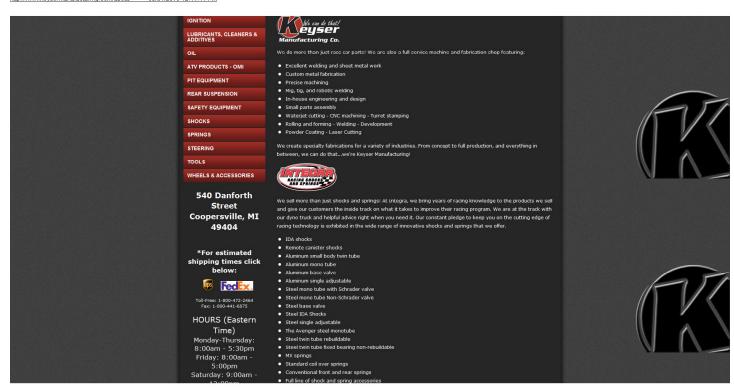


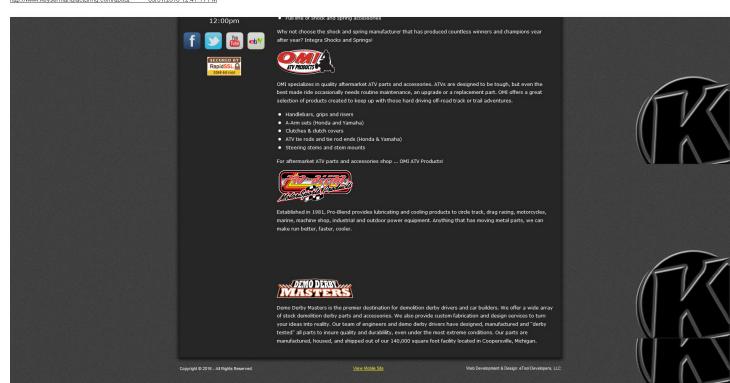
















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Discover how much better the right tubing — AdvantaFlex — will work in your pharmaceutical, blodech, medical, or other critical processing application.



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Coil Length Legend

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tuoning is product number APPAP-DP-0125-0250L. Add lentight aim 3 to denote 'spool' for products with lengths available on spools. Example: a 500 foot spool of 250 inch D. Uniong is product number PAPS-BP-0125-0250-000S. Colls and spools are supplied in earlier PAPS-BP-0125-0250-000S. Colls and spools are supplied in decoule be spaged for most sizes. Contact your AdvantaPure Sales Representative for other packaging options.

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Bedroom Products

Walk-in Bathtubs

Benches

Air Pillows

Bike and Tricycle Accessories Exercise Equipment Hand Therapy Products

> Rebounders Rehabilitation Products Store Therapy Putty

Hand Helpers

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Protective Helmets Protective Helmets Accessories

Hospital Beds

Safety Beds

SleepSafe Safety Beds

Hospital Beds Hospital Bed Accessories Hospital Bed Tables Hospital Bed Gap Protection Hospital Bed Trapeze Hospital Bed Mattress Hospital Bed Overlays Hospital Bed Rails Hospital Bed Packages **Hospital Cribs** Hospital Linen Low Beds

Hoyer Lift Slings Hoyer Lift Accessories Patient Lifts Patient Lift Slings Patient Lift Accessories Patient Transfer Pool Lifts Standing Lifts

Patient Transfer

Gurneys Patient Safety Transfer Boards

Transport Chairs Transport Wheelchairs

Pediatrics/Children

Pediatric Products Rifton Equipment

Rifton Activity Chairs Rifton Adaptive Tricycle

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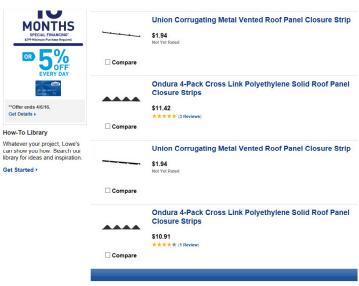
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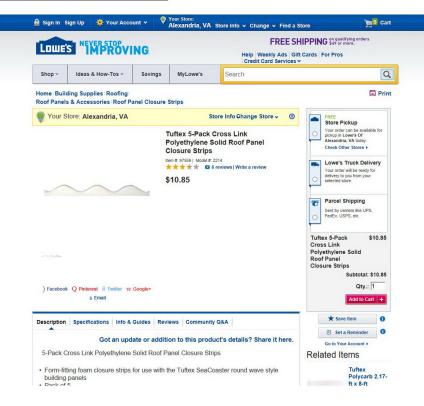
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THE 100 WORDS*

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clo·sure ∜ (klō zhər)

- 1. The act of closing or the state of being closed: closure of an incision.
 2. Something that closes or shuts.
- 3. A bringing to an end; a conclusion: finally brought the project to closure.
- - a. A bringing to an end; a conclusion: finally brought the
- a. A bringing to an end, a conclusion: finally brought the project to closure
 b. A feeling of finality or resolution, especially after a traumatic experience: sought closure in returning to the scene of the accident.

 5. See cloture.
 6. The property of being mathematically closed.

 tr.v. clo-sured, clo-sur-ing, clo-sures

 To cloture (a debate).

[Middle English, from Old French, from Late Latin clausūra, fortress, lock, from clausus, enclosed; see close. Sense 4, translation of French

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close (klōs)

- adj. clos-er, clos-est

 1. Being near in space or time. See Usage Note at redundancy.

 2. Reing near in relationship close relatives.

 3. Bound by mutual interests, loyalties, or affections; intimate:
 - close friends.

 4. Having little or no space between elements or parts; tight and

 - 4. Having little or no space between elements or parts; tight and compact: a close weave.

 5. Being near the surface; short: a close haircut.

 6. Being on the brink of: close to tears.

 7. Decided by a narrow margin; almost even: a close election.

 8. Faithful to the original: a close copy.

 9. Very attentive; rigorous; thorough: a close reading; close supervision.

 10. Shut; closed.

 11. Shut in; enclosed.

 12. Confining or marrow: crowded; close quarters.

 - 11. Smit in, enclosed.

 12. Confining or narrow; crowded: close quarters.

 13. Fitting tightly: close garments.

 14. Warm and humid or stuffy: close weather; a close room.

 15. Confined to specific persons or groups: a close secret.

 16. Strictly confined or guarded: kept under close custody.

 17. Secretive; reticent: was close about her personal life.
 - 18. Giving or spending with reluctance, stingy: He is known to be close with his money.

 19. Not easily acquired; searce: Money was close.

 20. Linguistics Pronounced with the tongue near the palate, as the

 - ee in meet. Used of vowels.

 21. Marked by more rather than less punctuation, especially

commas. v. (klōz) closed, clos-ing, clos-es

- To move (a door, for example) so that an opening or passage is covered or obstructed; shut.
 To bar access to: closed the road for repairs.
- 3. To fill or stop up: closed the cracks with plaster.

THE 100 WORDS*

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on the sniper.

3. To surround so as to make unusable: The airport was closed in by

fog. close out

4. To stop the operations of permanently or temporarily: closed down the factory.

5. To make unavailable for use: closed the area to development; closed the database to further changes.

6. To bring to an end, terminate, close a letter; close a bank account. 7. To bring together all the elements or parts of: Management closed ranks and ostracized the troublemaker. closed raths and ostracted the troublemaker.

8. To join or unite, bring into contact: close a circuit.

9. To draw or bind together the edges of: close a wound.

10. Sports To modify (one's stance), as in baseball or golf, by turning the body so that the forward shoulder and foot are closer to the intended point of impact with the ball.

11. To complete the final details or negotiations on: close a deal. 12. Archaic To enclose on all sides. To become shut: The door closed quietly.
 To come to an end; finish: The book closes on a hopeful note. 3. To reach an agreement; come to terms: We close on the house next week. 4. To cease operation: The shop closes at six.
5. To be priced or listed at a specified amount when trading ends: Stocks closed higher on Monday.
6. a. To engage at close quarters: closed with the enemy.b. To draw near: The orbiter closed with the space station in preparation for docking.

7. To come together: My arms closed around the little child.

8. Baseball To finish a game by protecting a lead. Used of relief B. Basecall 10 mmsn a game by protecting a lead. Used of relief pitchers.

In. (kloz)

1. The act of closing.

2. A conclusion; a finish: The meeting came to a close.

3. Music The concluding part of a phrase or theme, a cadence.

4. (klos) An enclosed place, especially land surrounding or beside a cathedral or other building.

5. (klos) Chiefft Betich A parrow way or allow. 5. (klōs) Chiefly British A narrow way or alley. 6. Archaic A fight at close quarters. adv. (klōs) closer, closest aav. (ktos) closer, closest
In a close position or manner; closely: stayed close together.

Phrasal Verbs:
close in
1. To seem to be gathering in on all sides: The problems closed in.
2. To advance on a target so as to block escape: The police closed in on the stinger.

To dispose of (a line of merchandise) at reduced prices.
 To terminate, as by selling: close out a business.

close the book on

To make a final effort regarding (something); bring to a conclusion:
closed the book on her career with a fine performance.

close to home/the bone

So as to affect one's feelings or interests: Her comment hit close

so as to aniect one's reenings or interests. Their continuent int close to home.

close to the wind Nautical

At a close angle into the direction from which the wind is blowing: sailing close to the wind.

 $[Middle\ English\ clos,\ closed,\ from\ Old\ French,\ from\ Latin\ clausus,\ past$ participle of claudere, to close. V., from Middle English closen, from Old French clore, clos-, from Latin claudere.]

 $\begin{array}{lll} \textbf{clos} & \textbf{a} \cdot \textbf{ble}, \textbf{close} & \textbf{a} \cdot \textbf{ble} \ (\textbf{kl\"{0}} & \textbf{za-bal}) \ adj. \\ \textbf{close} & \textbf{ly} \ adv. \\ \textbf{close} & \textbf{ness} \ n. \\ \textbf{clos} & \textbf{ing} \ (\textbf{kl\~{0}} & \textbf{z\'{ing}}) \ n. \\ \end{array}$

Synonyms: close, immediate, near, proximate
These adjectives mean not far from another in space, time, or
relationship: an airport close to town; her immediate family;
his nearest relative; the proximate neighborhood. See Also Synonyms at complete.

Antonym: far

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Close (klós), Charles Thomas Known as "Chuck." Born 1940.
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American artist best known for his enlarged portraits that combine
photorealist style with pointillist or pixel-based approaches to the
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(click for a larger image) Chuck Close photographed in 2006

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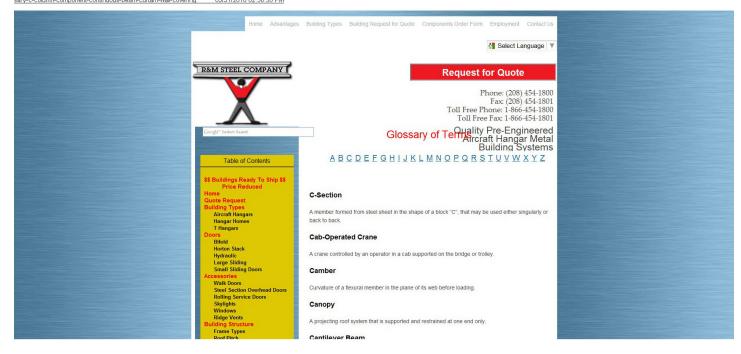
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Cantilever Beam

A beam supported only at one end having a free end and a fixed end.

Cap Plate

A plate located at the top of a column or end of a beam for capping the exposed end of the member

Capacity

The maximum load (usually stated in tons) which a crane is designed to support.

Capillary Action

That action which causes movement of liquids when in contact with two adjacent surfaces such as panel sidelaps.

Caulk

Channel, Hot Rolled

A C-shaped member formed while in a semi-molten state at the steel mill to a shape having

Cladding

The exterior metal roof and wall paneling of a Metal Building System. See also "Components and Cladding".

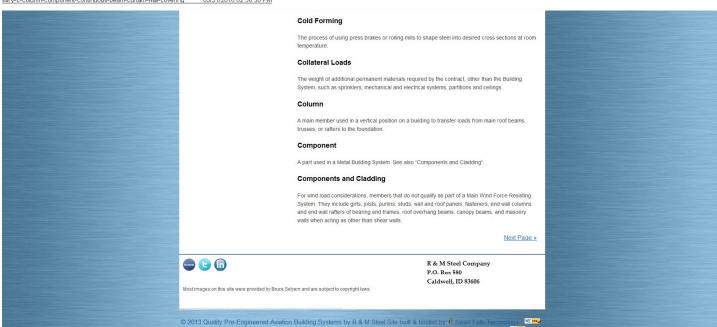
Clip

A plate or angle used to fasten two or more members together.

Closure Strlp

A resilient strip, formed to the contour of ribbed panels and used to close openings created by ribbed panels joining other components.

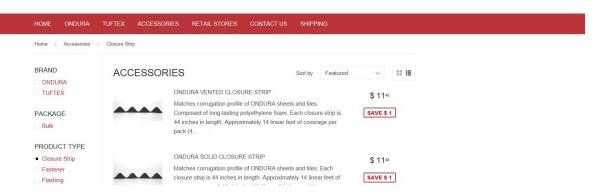




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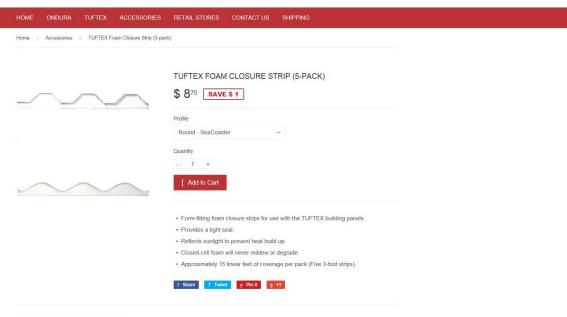
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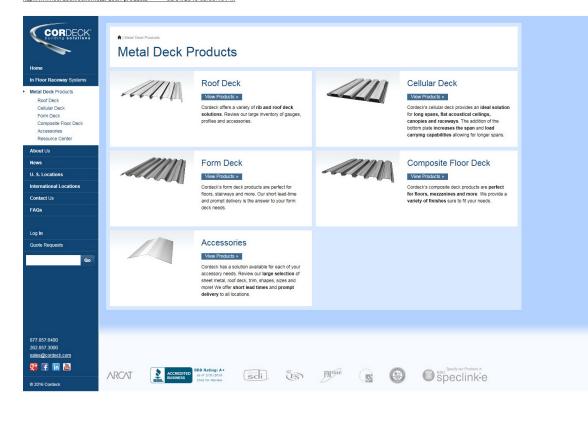
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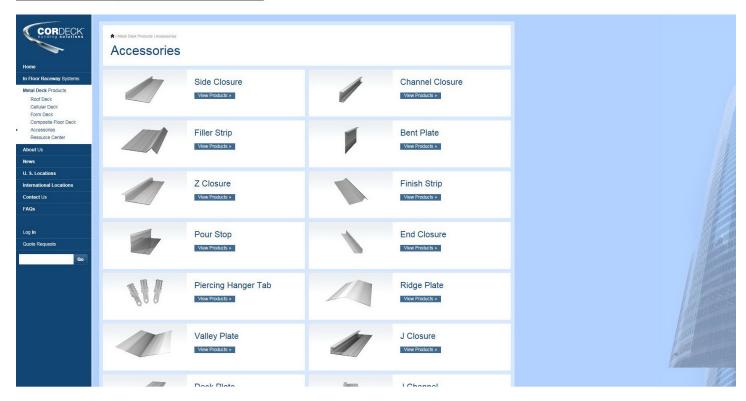
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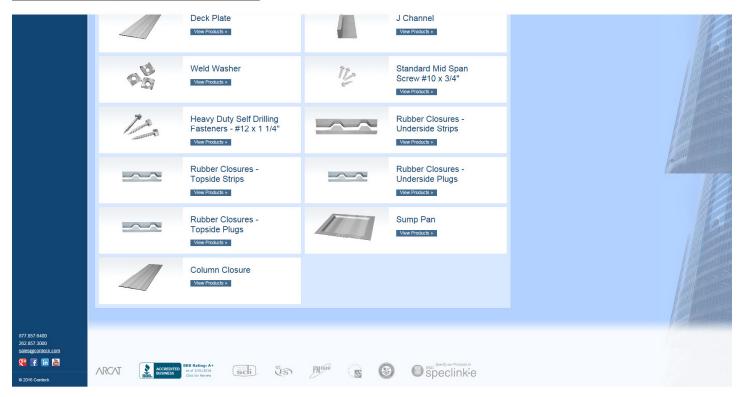
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